IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

WA.No. 2906 of 2007

AGAINST THE JUDGEMENT IN WPC.31735/2007 Dated 21/11/2007

.....

APPELLANT: PETITIONER:

SWAPNA BIJOY,
PROPRIETRIX, SWABIN TRANSPORTS,
PENTA TOWERS,
OPP. P.V.S.HOSPITAL, KALOOR,
KOCHI-682 017.

BY ADV. SRI.K.JAJU BABU

RESPONDENTS: RESPONDENTS:

1. CANARA BANK,
   REPRESENTED BY SENIOR MANAGER,
   CURRENCY CHEST, TRIPUNITHURA.

2. CEECY TRAVELS,
   FORT ROAD, NORTH PARUR.

BY ADV.SRI.M.C.SEN (SENIOR)

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.2906 of 2007

Dated, this the 6th day of December, 2007

JUDGMENT

K.T.Sankaran,J.

Ext.P6 proceedings were challenged in the writ petition filed by the appellant herein. As per Ext.P6, the Canara Bank expressed the view that the vehicle which was offered by the petitioner/appellant cannot be made use of for the purposes of the Bank.

(2). The petitioner was awarded a contract for transportation of currency notes on behalf of the Bank. According to the Bank, the seating capacity was not sufficient. A request was made to the RTO to permit to enhance the seating capacity. That was rejected. The petitioner filed appeal before the Deputy Transport Commissioner. That was also dismissed. W.P.(C) No.3703/07 was filed by the appellant, challenging the orders.

(3). On 30th July, 2007, Ext.P6 proceedings were issued by the Bank, informing the petitioner that, since the seating capacity of the petitioner's vehicle was not enhanced the services of the petitioner are not required. The writ petition was finally disposed of on 23rd August , 2007 and it was directed that the first respondent therein may grant permission to the petitioner for enhancement of seating capacity.

(4). It is stated by the appellant that the seating capacity of the vehicle was enhanced as directed and he has spent huge amounts for the

same. In the meanwhile, the first respondent Bank invited fresh tenders by public advertisement on 17-12-2006. In response to the advertisement, the petitioner/appellant also participated. The second respondent in the present writ petition was another participant who offered a lesser amount. The Bank accepted the offer made by the second respondent and the contract was granted in favour of the second respondent.

(5). The learned Single Judge, rejected the prayer made by the petitioner on the ground that he cannot question the proceedings in auction as he himself participated in the auction. It was also pointed out by the learned Judge that the amount offered by the second respondent was less than the amount offered by the petitioner and therefore, the Bank cannot be faulted for accepting the tender submitted by the second respondent. It is also noticed that the notice inviting tender was not challenged by the petitioner in any proceedings and therefore, in this writ petition he cannot challenge the same.

(6). The writ petitioner raised another contention which was not borne out by the pleadings and it was not allowed to be raised by the learned Single Judge, as is clear from para 6 of the judgment. The petitioner/appellant was permitted to independently raise all those contentions.

(7). In so far as the prayer in the writ petition was concerned, the learned Judge held that the petitioner is not entitled to any relief, he having participated in the auction and there being no case for him that he has submitted a tender competitive to that of the second respondent. No grounds are made out to interfere with the orders passed by the learned Judge. The writ

appeal lacks merits and it is dismissed. No order as to costs.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

MS